IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.N.KRISHNAN

TUESDAY, THE 6TH NOVEMBER 2007 / 15TH KARTHIKA 1929

WP(C).No. 21527 of 2007(K)

OS.9/2005 of M.C.,PARAPPANANGADI

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PETITIONER:

AATHRAPULIKKAL VELAYUDHANKUTTY,
S/O. CHANDRAN, AGED 76 YEARS, THIRURANGADI TALUK,
VALLIKUNNU AMSOM AND DESOM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.P.SUDHEER
SRI.SANTHEEP ANKARATH

RESPONDENTS:

1. AMBALATHINGAL DEVADASAN, S/O.DAMODARAN,
VALLIKUNNU NORTH, K. NAGARAM, MALAPPURAM DISTRICT.

2. CHILDREN OF FIRST RESPONDENT,
GOKULDAS @ SHIRJITEN, VALLIKUNNU NORTH,
K. NAGARAM, MALAPPURAM DISTRICT.

3. CHILDREN MADHASOODANAN,
VALLIKUNNU NORTH, K. NAGARAM, MALAPPURAM DISTRICT.

BY ADV. SRI.K.T.SHYAMKUMAR FOR R1 AND R3
SRI.HARISH R. MENON

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 06/11/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO 21527/07

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1. COPY OF WRITTEN STATEMENT DT. 13.6.05 FILED BY THE DEFENDANTS IN O.S. NO.9 OF 2005 BEFORE THE MUNSIFF'S COURT, PARAPPANANGADI

EXT.P2. COPY OF PLAINT AS AMENDED VIDE ORDER DT. 4.6.07 IN O.S. NO. 9 OF 2005 OF THE MUNSIFF'S COURT, PARAPPANANGADI

EXT.P3. COPY OF THE APPLICATION FOR AMENDMENT WITH THE AFFIDAVIT FILED ALONG WITH THE APPLICATION AND DT. 18.6.2007 (IA 916/2007)

EXT.P4. COPY OF COUNTER IN I.A. 916 OF 2007 AND DT. 29.6.07

EXT.P5. COPY OF THE ORDER DT. 29.6.07 IN I.A.916 OF 2007 IN O.S.9 OF 2005 OF MUNSIFF'S COURT, PARAPPANANGADI

/TRUE COPY/
PA TO JUDGE.

M.N.KRISHNAN, J.

W.P.(C). NO. 21527 OF 2007

Dated this the 6th day of November, 2007

J U D G M E N T

This writ petition is preferred against the order of the Munsiff, Parappanangadi, in I.A. No.916/2007 in O.S. No.9/2005. The petition is one for amendment of the plaint.

2. According to the petitioner, there were some misdescription in the document regarding the property and therefore he wants to amend the plaint giving the correct details. The court below found that there is change in the Plaint Schedule Property and therefore dismissed the amendment application.

3. I cannot agree with the finding of the learned Munsiff. The parties are claiming property with respect to certain documents. Those documents are the basis for the decision in the case. Even if the plaint amended stating that there is a misdescription in the document, it will not militate against considering the correctness of such a contention in the suit in the backdrop of the document under which the party claims the property. Therefore even if the amendment is allowed, it will not change the character of the suit and

it cannot change the property because the question involved still looms large only on the basis of the document of title claimed by the party.

Therefore I set aside the order passed by the learned Munsiff and allow the writ petition with a direction to the court below to permit the plaintiff to amend the plaint and thereafter give opportunity to the defendant to file additional written statement.

With the above directions, this writ writ petition is disposed of.

M.N.KRISHNAN, JUDGE

vps